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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/993,059	11/13/2001	Stephen J. Garger	00801.0087.CPUS06	9037

22930 7590 03/06/2003

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EXAMINER

FOX, DAVID T

ART UNIT	PAPER NUMBER
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1638

DATE MAILED: 03/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/993,059

Applicant(s)

Garger et al

Examiner

FOX

Group Art Unit

1638

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 3/20/02
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 19-66 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☐ Claim(s) _____ is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☒ Claim(s) 19-66 are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

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The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 1638.

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 19-23 and 25-29, drawn to a polypeptide comprising rGAL-12 (SEQ ID NO:29), classified in class 530, subclass 827, for example.
- II. Claims 24 and 30, drawn to a nucleic acid encoding a polypeptide comprising SEQ ID NO:29, classified in class 536, subclass 23.5, for example.
- III. Claims 31-35 and 37-41, drawn to a polypeptide comprising rGAL-12R (SEQ ID NO:30), classified in class 530, subclass 826, for example.
- IV. Claims 36 and 42, drawn to nucleic acids encoding a polypeptide comprising SEQ ID NO:30, classified in class 536, subclass 23.72, for example.
- V. Claims 43-47 and 49-49-53, drawn to a polypeptide comprising rGAL-25 (SEQ ID NO:31), classified in class 530, subclass 300, for example.
- VI. Claims 48 and 54, drawn to nucleic acids encoding a polypeptide comprising SEQ ID NO:31, classified in class 536, subclass 23.2, for example.
- VII. Claims 55-59 and 61-65, drawn to a polypeptide comprising rGAL-25R (SEQ ID NO:32), classified in class 435, subclass 206, for example.
- VIII. Claims 60 and 66, drawn to nucleic acids encoding a polypeptide comprising SEQ ID NO:32, classified in class 435, subclass 69.1, for example.

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The inventions are distinct, each from the other because:

Each of Inventions I, III, V and VII and each of Inventions II, IV, VI and VIII are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different modes of operation and different functions. The isolated polypeptides of the Groups I, III, V and VII are not required by the isolated nucleic acids of the Groups II, IV, VI and VIII. Furthermore, the polypeptides of Groups I, III, V and VII can be made by a process not requiring the nucleic acids of Groups II, IV, VI and VIII, such as chemical synthesis.

Applicants are reminded that nucleotide sequences encoding different proteins are structurally distinct chemical compounds and are unrelated to one another. These sequences are thus deemed to normally constitute **independent and distinct** inventions within the meaning of 35 U.S.C. 121. Absent evidence to the contrary, each such nucleotide sequence is presumed to represent an independent and distinct invention, subject to a restriction requirement pursuant to 35 U.S.C. 121 and 37 CFR 1.141 et seq.

Upon election of a Group above, Applicant is additionally required to select a single nucleotide sequence and/or corresponding amino acid sequence for said Group. This requirement is not to be construed as a requirement for an election of species, since each nucleotide and amino acid sequence is not a member of single genus of invention, but constitutes an independent and patentably distinct invention.

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Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, classification, and fields of search, restriction for examination purposes as indicated is proper.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

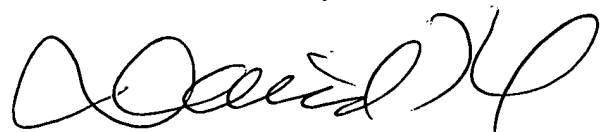
Any inquiry concerning this communication or earlier communications from the examiner should be directed to David T. Fox whose telephone number is (703) 308-0280. The examiner can normally be reached on Monday through Friday from 10:30AM to 7:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amy Nelson, can be reached on (703) 306-3218. The fax phone number for this Group is (703) 872-9306. The after final fax phone number is (703) 872-9307.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

March 2, 2003

DAVID T. FOX
PRIMARY EXAMINER
GROUP 180-1638

A handwritten signature in black ink, appearing to read "David T. Fox", is written over the printed name and group number.